

File 100/11

## The Bureaucracy

*Hear No Evil, Speak No Evil, Publish No Evil*

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WASHINGTON, Aug. 15 — Over the last three and a half decades, most Federal agencies have adopted rules to require millions of current employees, and in some cases former employees, to agree to submit any books, magazine articles or speeches for review by Government censors.

The range of this censorship extends from the very top to the very bottom of the bureaucracy.

Secretary of State George P. Shultz and Attorney General William French Smith, for example, have signed agreements promising that if they ever write a book or article, including fiction, that touches upon certain types of intelligence material, they will submit it to censors before publication.

All 20,637 current employees of the Federal Bureau of Investigation, and tens of thousands of retired F.B.I. employees, have signed statements that permit the bureau to censor anything they write, at any point in their lives, if it contains information learned as a result of their connection with the F.B.I.

In 1963, alone, the Defense Department's 4.6 million employees submitted for censorship the manuscripts of well over 15,000 books, articles and speeches.

It is not known how many Government employees have been forced to alter their material because of censorship. Neither is it known how many employees might have been dissuaded from writing because of the threat of censorship. A spokesman at one agency, the F.B.I., said: "We've never had a book completely rejected. Some have contained material that was classified or otherwise violated policy, but when this was pointed out there was concurrence in every instance."

**Criticism Is Building**

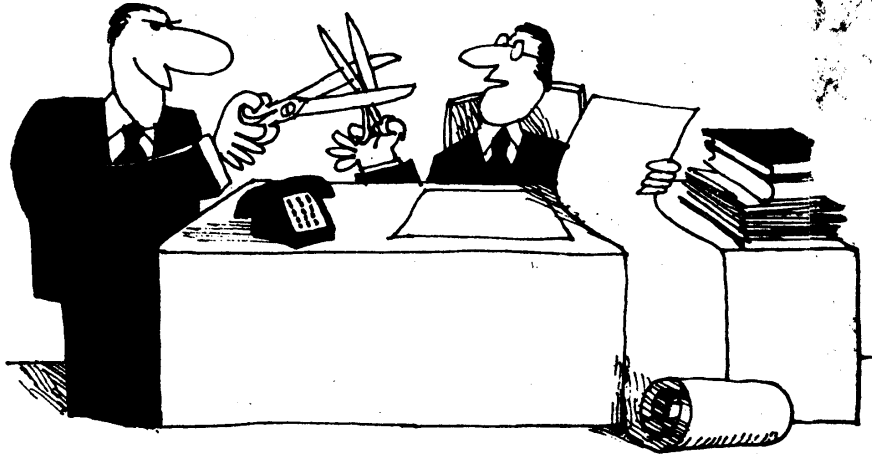
Federal officials say censorship is necessary to protect the nation's security and to prevent the improper disclosure of information collected in criminal investigations. For many years, this argument was accepted with little dissent. But now criticism is building, with the critics contending that many of the regulations violate the First Amendment's free speech guarantee, actually hurt the Government by stifling informed dissent and, in any event, do not prevent the disclosure of many secrets.

A recent effort by the Reagan Administration to broaden the lifetime controls on the writing and speeches of certain employees generated such a wave of opposition that the Administration withdrew the proposal last February.

Then, in June, the House Post Office and Civil Service Committee approved legislation introduced by Representative Jack Brooks, Democrat of Texas, that would outlaw virtually all existing censorship requirements except for the C.I.A. and the National Security Agency. This legislation has been referred to other House committees for further consideration.

Among the agencies that censor the writing or statements of their employees, their former employees or their contractors are the

Department of Defense, Securities and Exchange Commission, United



States Information Agency, Federal Reserve, Nuclear Regulatory Commission and Tennessee Valley Authority. The fine print of the regulations varies agency by agency, but the basic idea of prior-publication review of statements concerning the United States Government is always present.

One of the strongest supporters of the current restrictions is Assistant Attorney General Richard K. Willard, who was the author of the Administration's plan to strengthen certain parts of the censorship rules.

"Our adversaries employ highly efficient intelligence services which

of informed public discussion."

Another critic is Stephen McLeod, a former captain in the United States Army. A year ago, while still in the Army, Captain McLeod decided that a censorship agreement he had signed after seven years as an intelligence officer violated his rights as a citizen of the United States.

On July 28, 1983, he went to the administrative office of his unit in West Germany, requested all copies of his personal agreement and tore them in half. At the same time, he gave the Army a statement saying his action was not to be construed as suggesting that he had violated or ever would violate United States law regarding the control of classified information.

After the destruction of his agreements, Mr. McLeod said in a recent interview, he succumbed to heavy pressure from his commander to resign from the Army. He now teaches college-level English literature and has begun legal proceedings to try to regain his commission in the Army.

**'Our Anxiety' About Moscow**

"The agreement is exactly the kind of thing the founding fathers were trying to prevent when they drafted the free speech guarantee of the First Amendment," Mr. McLeod said. "The First Amendment is one of the things that makes the United States unique. If we, in our anxiety about the Soviet Union, end up adopting that country's methods, it ultimately could mean it doesn't matter which side of the wall you live on."

The agreement that the Attorney General and Secretary of State have placed their signatures on and that Mr. McLeod destroyed was Form 4183, issued by the Reagan Administration in July of 1981. Under this agreement, any person given access to a highly secret category of material labeled "sensitive compartmented information," or S.C.I., is required to allow the Government to review any future writings, including fiction, that might have been derived from S.C.I.

On March 11, 1983, however, President Reagan signed National Security Decision Directive 84, a plan that apparently broadened the pre-publication review requirements for Government employees handling sensitive compartmented information and extended the use of polygraph testing in an effort to stop disclosures. The

opposition to this directive was so powerful among a wide range of individuals and institutions that 11 months later its sections concerning censorship and polygraph testing were withdrawn.

But a study completed last month by the General Accounting Office at the request of Representative Brooks, who is chairman of the House Government Operations Committee, showed that the withdrawal was something of an illusion because at least 120,000 Government employees had already signed lifetime censorship agreements through Form 4183, not including employees of the C.I.A. or National Security Agency.

**'Unwarranted Infringement'**

In addition to the various lifetime requirements, the study found that close to 5 million Government employees working for 12 agencies were subject to pre-publication review requirements for material published or statements made while they were employed by the Government.

It was partly on the basis of such findings that the House Post Office and Civil Service Committee approved the Brooks proposal.

The legislation holds that requiring employees to sign pre-publication review agreements represented an "unwarranted infringement of open debate on matters of national importance" and was "readily subject to intentional manipulation and abuse for partisan political purposes."

If enacted, the legislation would substantially modify the impact of a 1979 Supreme Court decision that supported the censorship requirements of the Central Intelligence Agency as they were applied to Frank W. Snapp, a former Central Intelligence Agency employee whose earnings from a book about intelligence activities in Vietnam were seized by the Government. In addition to holding that the C.I.A.'s censorship was valid and not an impermissible prior restraint, the Court indicated that such restrictions could properly be imposed on a wide range of Federal employees.

Partly because Congress is expected to be in session for only a few more weeks in the current legislative year, the bill's future is far from clear. Opposition is expected from many agencies whose censorship rules would be largely eliminated.

## Federal officials say censorship is needed. But for millions of employees?

use overt and covert means to gather information concerning American military capabilities, diplomatic intentions and our own intelligence efforts," Mr. Willard said recently. "The security of this nation and the peace of this world depends in large part on our ability to keep certain kinds of information secret."

**Among the Critics**

Among the most outspoken critics of the censorship requirements are Ralph P. Davidson, chairman of the board of Time Inc.; Dennis Hays, president of the American Foreign Service Association; Thomas I. Emerson, a leading authority on Constitutional law who is a professor emeritus of the Yale Law School, and George W. Ball, a former Deputy Secretary of State.

"Any abridgment of the freedom of speech, and particularly the practice of pre-publication censorship, runs counter to the genius of our democratic system," Mr. Davidson said in a subcommittee report. "Indeed, our founding fathers strongly affirmed the principle that a democracy can govern wisely only in an atmosphere